

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CITY OF CHICOPEE, Acting through the
Chicopee Public Schools,

Plaintiff,

v.

DAVID T. As Parent and next friend of
Kaitlyn T. and MASSACHUSETTS
DEPARTMENT OF EDUCATION,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO. 04-30087-MAP

**MEMORANDUM IN SUPPORT OF
DEFENDANT MASSACHUSETTS DEPARTMENT OF EDUCATION'S
CROSS-MOTION FOR SUMMARY JUDGMENT
AND IN OPPOSITION TO
CHICOPEE'S MOTION FOR SUMMARY JUDGMENT**

Defendant Massachusetts Department of Education (the "Department") – by and through the Attorney General of the Commonwealth of Massachusetts, its counsel – submits this memorandum (1) in support of its cross-motion that this Court enter summary judgment in the Department's favor, affirming the decision of the Bureau of Special Education Appeals ("BSEA") that is under review in this action and (2) in opposition to the motion for summary judgment filed by plaintiff City of Chicopee, acting through the Chicopee Public Schools ("Chicopee").

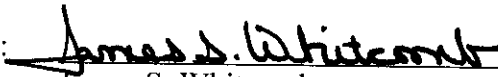
As for grounds for the affirmance of the decision of the BSEA, the Department relies on the arguments made by its co-defendant David T. (docket, paper no. 53).

CONCLUSION

Wherefore, the Massachusetts Department of Education respectfully requests that this Court (1) grant the Department's cross-motion for summary judgment filed herewith; (2) deny Chicopee's motion for summary judgment (docket, paper no. 50), and (3) enter judgment in the Department's favor, affirming the decision of the Bureau of Special Education Appeals, dated April 7, 2004 (Nelida vs. Chicopee Public Schools, BSEA # 04-0093) (docket, paper no. 14, pp. 89-103).

By its attorney,

THOMAS F. REILLY
ATTORNEY GENERAL

By: 
James S. Whitcomb
Assistant Attorney General
Western Massachusetts Division
1350 Main Street
Springfield, MA 01103-1629
(413) 784-1240, ext. 113 (telephone)
(413) 784-1244 (facsimile)
B.B.O. No. 557768

DATED: January 11, 2005.

CERTIFICATE OF SERVICE

I, James S. Whitcomb, Assistant Attorney General, hereby certify that on this 11th day of January 2005, I served the foregoing *Memorandum in Support of Defendant Massachusetts Department of Education's Cross-Motion for Summary Judgment and in Opposition to Chicopee's Motion for Summary Judgment* on both other parties by mailing a true copy of the document to each other party's respective counsel of record:

Claire L. Thompson, Esquire
Doherty, Wallace, Pillsbury
& Murphy, P.C.
One Monarch Place
1414 Main Street, 19th Floor
Springfield, MA 01144

Derek M. Beaulieu, Esquire
1242 Main Street, Suite 306
Springfield, MA 01103


James S. Whitcomb